

REMARKS

Applicant respectfully requests entry of the following amendments and remarks in response to the Office Action mailed March 31, 2008. Applicant respectfully submits that the amendments and remarks contained herein place the instant application in condition for allowance.

Upon entry of the amendments in this response, claims 1 – 22 are pending. In particular, Applicant amends claims 1, 10 – 18, and 20. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

Applicant acknowledges with appreciation the withdrawal of the previous rejection under 35 U.S.C. §103. However, Applicant submits that claims 1-22 are allowable in spite of the new grounds of rejection for at least the reasons given below.

I. Rejections Under 35 U.S.C. §101

The Office Action indicates that claims 10 – 22 stand rejected under 35 U.S.C. §101 as claiming allegedly that the invention is directed to non-statutory subject matter. In an effort to address the Examiner's concerns and expedite prosecution, Applicant amends claims 10 – 18 and 20, as indicated above. Applicant submits that these amendments comply with the Office Action request and that claims 10 – 18 and 20 – 22 meet all the requirements of 35 U.S.C. §101.

Additionally, the Office Action indicates that claim 19 stands rejected under 35 U.S.C. §101 as claiming allegedly being directed to non-statutory subject matter. Applicant respectfully traverses this rejection. More specifically, 35 U.S.C. §112 ¶6 states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function ***without the recital of structure, material, or acts in support thereof***, and such claim shall be ***construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof***.

(emphasis added)

Applicant refers to, among other places, FIG. 2, elements 220 and 230, which include a processor and a memory. For at least the reason that the “means” elements include hardware for implementation (which in one exemplary embodiment includes a processor 220 and a memory 230), claim 19 meets the requirements of 35 U.S.C. §101. For at least this reason, Applicant traverses this rejection.

Further, the Office Action indicates that the examiner is required to give the “broadest reasonable interpretation” of claim language. Applicant submits that it would be entirely unreasonable to interpret a claim that is clearly written with “means-plus-function” language as being beyond the scope of 35 U.S.C. §112 ¶6. The only reasonable interpretation of this claim is that it complies with the metes and bounds laid out by 35 U.S.C. §112 ¶6. Further, as stated in MPEP §2181, citing *In re Donaldson Co.*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994), “[p]er our holding, the ‘broadest reasonable interpretation’ that an examiner may give means-plus-function language is that statutorily mandated in paragraph six. Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination” (emphasis added). Consequently, Applicant respectfully submits that this rejection is improper and that claim 19 meets all the requirements of 35 U.S.C. §101.

II. Rejections Under 35 U.S.C. §112

In the Response to Arguments section, the Office Action reiterates a previous argument that claim 1 is rejected under 35 U.S.C. §112, second paragraph, and maintains the rejection. The Office Action indicates that the language of claim 1 is allegedly unclear because “claim 1 recites ‘send the instant message to a second recipient’ but it is not clear how the origin of the instant message is indicated by the ‘first recipient.’” Applicant respectfully submits that claim 1

does not recite that the instant message is sent to the second recipient, as alleged in the Office Action. While the Office Action quotes a portion of claim 1 to support the Office Action argument, the portion of claim 1 quoted by the Office Action is incomplete. More specifically, claim 1 recites “prompting the sender to send the instant message to a second recipient and indicate, by the first recipient, that the IM message originated from the sender...” As illustrated in this passage, claim 1 does not require that the message is sent, but only that the sender is prompted. Further, nowhere does claim 1 indicate that the sender is (or will be) sending the message to the second recipient. Claim 1 only recites that the sender is prompted to send the message.

The Office Action also indicates that claim 19 stands rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. As indicated above with regard to the 35 U.S.C. §101 rejection, Applicant respectfully traverses this rejection for at least the reason that there is no such requirement that Applicant specifically indicate which means are intended. More specifically, MPEP §2181(II) states “[t]he proper test for meeting the definiteness requirement is that the corresponding structure (or material or acts) of a means (or step)-plus-function limitation must be disclosed in the specification itself in a way that one skilled in the art will understand what structure (or material or acts) will perform the recited function (emphasis added). Further MPEP §2181(II) also states “[t]he disclosure of the structure (or material or acts) may be implicit or inherent in the specification if it would have been clear to those skilled in the art what structure (or material or acts) corresponds to the means (or step)-plus-function claim limitation” (emphasis added). For at least the reason that Applicant is not required to “specifically mention the details of [the] specific mean” (OA page 5, paragraph 8), Applicant traverses this rejection. For at least these reasons, claim 19 meets all the requirements of 35 U.S.C. §112.

III. Rejections Under 35 U.S.C. §103

A. Claim 1 is Allowable Over Lee in view of Fostick

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“Lee”) in view of U.S. Patent Publication 2002/0187794 (“Fostick”). Applicant respectfully traverses this rejection for at least the reason that *Lee* in view of *Fostick* fails to disclose, teach, or suggest all of the elements of claim 1. More specifically, claim 1 recites:

A communication method comprising:
receiving an instant messaging (IM) message from a sender to a first recipient;
waiting a predefined time interval for an input from the first recipient, the input being responsive to the IM message;
determining whether input from the first recipient is received during the predetermined time interval; and
in response to determining that no input from the first recipient is received during the predetermined time interval,
prompting the sender to send the instant message to a second recipient and indicate, by the first recipient, that the IM message originated from the sender.

(Emphasis added).

Applicant respectfully submits that claim 1 is allowable for at least the reason that neither *Lee* nor *Fostick*, taken alone or in combination, discloses teaches, or suggests a “communication method comprising... in response to determining that no input from the first recipient is received during the predetermined time interval, ***prompting the sender to send the instant message to a second recipient and indicate, by the first recipient, that the IM message originated from the sender***” as recited in claim 1. More specifically, the Office Action admits that “Lee... is silent on disclosing explicitly, prompting the sender to send the instant message to a second recipient and indicating, by the first recipient that the IM message originated from the sender” (OA page 6, paragraph 11, line 16).

Further, *Fostick* fails to overcome the deficiencies of *Lee*. More specifically, *Lee* discloses a “[message recipient] sets up (1005) one or more automated response messages (ARM) on an [automated response message system]... The [message recipient] sets up such

[automated response messages]... allowing [the message recipient] (12) to enter and confirm the [automated response message], or by sending at least one SMS message to the [automated response message system] (18). A message might say, for example, that ‘I’m on vacation for the week, contact me May 1st, and the [message recipient] would send it to the phone number associated with the [automated response message system]” (page 3, paragraph [0040]). As illustrated in this passage, *Fostick* appears to disclose that, if a message recipient is not available, the automated response message system can send a message to the message sender, indicating the message recipient’s unavailability. Applicant respectfully submits that this is different than claim 1 for at least the reason that *Fostick* fails to even suggest prompting the message sender to do anything, not to mention “***prompting the sender to send the instant message to a second recipient and indicate, by the first recipient, that the IM message originated from the sender***” as recited in claim 1. Further, setting up and utilizing an automated response message system is completely different than prompting a sender to send an instant message to a second recipient and indicate that the IM message originated from the sender. For at least these reasons, claim 1 is allowable.

B. Claim 5 is Allowable Over Lee in view of Fostick

The Office Action indicates that claim 5 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“*Lee*”) in view of U.S. Patent Publication 2002/0187794 (“*Fostick*”). Applicant respectfully traverses this rejection for at least the reason that *Lee* in view of *Fostick* fails to disclose, teach, or suggest all of the elements of claim 5. More specifically, claim 5 recites:

A communication method comprising:
receiving an instant messaging (IM) message from a first sender to a recipient;
determining whether input from the recipient is received during a predetermined time interval;

in response to determining that no input is received during the predetermined time interval determining whether the recipient is engaged in an IM chat session with a second sender; and

in response to determining that the recipient is engaged in an IM chat session with the second sender, ***prompting the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender.***

(Emphasis added).

Applicant respectfully submits that claim 5 is allowable for at least the reason that neither *Lee* nor *Fostick*, taken alone or in combination, discloses teaches, or suggests a “communication method comprising... in response to determining that the recipient is engaged in an IM chat session with the second sender, ***prompting the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender***” as recited in claim 5. More specifically, the Office Action admits that “*Lee*... is silent on disclosing explicitly, prompting the sender to send the instant message to a second recipient and indicating, by the first recipient that the IM message originated from the sender” (OA page 6, paragraph 11, line 16).

Further, *Fostick* fails to overcome the deficiencies of *Lee*. More specifically, *Lee* discloses a “[message recipient] sets up (1005) one or more automated response messages (ARM) on an [automated response message system]... The [message recipient] sets up such [automated response messages]... allowing [the message recipient] (12) to enter and confirm the [automated response message], or by sending at least one SMS message to the [automated response message system] (18). A message might say, for example, that ‘I’m on vacation for the week, contact me May 1st’, and the [message recipient] would send it to the phone number associated with the [automated response message system]” (page 3, paragraph [0040]). As illustrated in this passage, *Fostick* appears to disclose that, if a message recipient is not available, the automated response message system can send a message to the message sender, indicating the message recipient’s unavailability. Applicant respectfully submits that this is different than claim 5 for at least the reason that *Fostick* fails to even suggest prompting the

message sender to do anything, not to mention “***prompting the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender***” as recited in claim 5. Further, setting up and utilizing an automated response message system is completely different than prompting a sender to send an instant message to a second recipient and indicate that the IM message originated from the sender. For at least these reasons, claim 5 is allowable.

C. Claim 10 is Allowable Over Lee in view of Fostick

The Office Action indicates that claim 10 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“Lee”) in view of U.S. Patent Publication 2002/0187794 (“Fostick”). Applicant respectfully traverses this rejection for at least the reason that Lee in view of Fostick fails to disclose, teach, or suggest all of the elements of claim 10. More specifically, claim 10 recites:

A computer-readable medium encoded with a computer program such that when executed by a computer performs at least the following:

receive an instant messaging (IM) message from a sender to a recipient;

wait a predefined time interval for an input from the recipient, the input being responsive to the IM message;

determine whether input from the recipient is received during the predetermined time interval; and

in response to determining that no input from the recipient is received during the predetermined time interval, ***prompt the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender.***

(Emphasis added).

Applicant respectfully submits that claim 10 is allowable for at least the reason that neither Lee nor Fostick, taken alone or in combination, discloses teaches, or suggests a “computer-readable medium encoded with a computer program such that when executed by a computer performs at least the following... in response to determining that no input from the recipient is received during the predetermined time interval, ***prompt the sender to send the***

instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender” as recited in claim 10. More specifically, the Office Action admits that “Lee... is silent on disclosing explicitly, prompting the sender to send the instant message to a second recipient and indicating, by the first recipient that the IM message originated from the sender” (OA page 6, paragraph 11, line 16).

Further, *Fostick* fails to overcome the deficiencies of *Lee*. More specifically, *Lee* discloses a “[message recipient] sets up (1005) one or more automated response messages (ARM) on an [automated response message system]... The [message recipient] sets up such [automated response messages]... allowing [the message recipient] (12) to enter and confirm the [automated response message], or by sending at least one SMS message to the [automated response message system] (18). A message might say, for example, that ‘I’m on vacation for the week, contact me May 1st, and the [message recipient] would send it to the phone number associated with the [automated response message system]” (page 3, paragraph [0040]). As illustrated in this passage, *Fostick* appears to disclose that, if a message recipient is not available, the automated response message system can send a message to the message sender, indicating the message recipient’s unavailability. Applicant respectfully submits that this is different than claim 10 for at least the reason that *Fostick* fails to even suggest prompting the message sender to do anything, not to mention “**prompt the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender”** as recited in claim 10. Further, setting up and utilizing an automated response message system is completely different than prompting a sender to send an instant message to a second recipient and indicate that the IM message originated from the sender. For at least these reasons, claim 10 is allowable.

D. Claim 14 is Allowable Over Lee in view of Fostick

The Office Action indicates that claim 14 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“Lee”) in view of U.S. Patent Publication 2002/0187794 (“Fostick”). Applicant respectfully traverses this rejection for at least the reason that Lee in view of Fostick fails to disclose, teach, or suggest all of the elements of claim 14. More specifically, claim 14 recites:

A computer-readable medium encoded with a computer program such that when executed by a computer performs at least the following:

receive an instant messaging (IM) message from a first sender to a recipient;

determine whether input from the recipient is received during a predetermined time interval;

in response to determining that no input is received during the predetermined time interval, determine whether the recipient is engaged in an IM chat session with second sender; and

in response to determining that the recipient is engaged in an IM chat session with the second sender ***prompt the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender.***

(Emphasis added).

Applicant respectfully submits that claim 14 is allowable for at least the reason that neither Lee nor Fostick, taken alone or in combination, discloses teaches, or suggests a “computer-readable medium encoded with a computer program such that when executed by a computer performs at least the following... in response to determining that the recipient is engaged in an IM chat session with the second sender ***prompt the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender***” as recited in claim 14. More specifically, the Office Action admits that “Lee... is silent on disclosing explicitly, prompting the sender to send the instant message to a second recipient and indicating, by the first recipient that the IM message originated from the sender” (OA page 6, paragraph 11, line 16).

Further, *Fostick* fails to overcome the deficiencies of *Lee*. More specifically, *Lee* discloses a “[message recipient] sets up (1005) one or more automated response messages (ARM) on an [automated response message system]... The [message recipient] sets up such [automated response messages]... allowing [the message recipient] (12) to enter and confirm the [automated response message], or by sending at least one SMS message to the [automated response message system] (18). A message might say, for example, that ‘I’m on vacation for the week, contact me May 1st, and the [message recipient] would send it to the phone number associated with the [automated response message system]” (page 3, paragraph [0040]). As illustrated in this passage, *Fostick* appears to disclose that, if a message recipient is not available, the automated response message system can send a message to the message sender, indicating the message recipient’s unavailability. Applicant respectfully submits that this is different than claim 14 for at least the reason that *Fostick* fails to even suggest prompting the message sender to do anything, not to mention “***prompt the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender***” as recited in claim 14. Further, setting up and utilizing an automated response message system is completely different than prompting a sender to send an instant message to a second recipient and indicate that the IM message originated from the sender. For at least these reasons, claim 14 is allowable.

E. Claim 19 is Allowable Over *Lee* in view of *Fostick*

The Office Action indicates that claim 19 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“*Lee*”) in view of U.S. Patent Publication 2002/0187794 (“*Fostick*”). Applicant respectfully traverses this rejection for at least the reason that *Lee* in view of *Fostick* fails to disclose, teach, or suggest all of the elements of claim 19. More specifically, claim 19 recites:

A communication system comprising:

means for receiving an instant messaging (IM) message from a sender to a recipient;

means for determining whether the recipient has provided an input during a predefined time interval;

means for, in response to determining that the recipient has not provided an input during the predetermined time interval, determining whether the recipient is engaged in an IM chat session with another sender;

means for, in response to determining that the recipient is engaged in an IM chat session with another sender, replying to the IM message; and

means for, in response to determining that the recipient is not engaged in an IM chat session with another user, ***prompting the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender.***

(Emphasis added).

Applicant respectfully submits that claim 19 is allowable for at least the reason that neither *Lee* nor *Fostick*, taken alone or in combination, discloses teaches, or suggests a “communication system comprising... means for, in response to determining that the recipient is not engaged in an IM chat session with another user, ***prompting the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender***” as recited in claim 19. More specifically, the Office Action admits that “*Lee*... is silent on disclosing explicitly, prompting the sender to send the instant message to a second recipient and indicating, by the first recipient that the IM message originated from the sender” (OA page 6, paragraph 11, line 16).

Further, *Fostick* fails to overcome the deficiencies of *Lee*. More specifically, *Lee* discloses a “[message recipient] sets up (1005) one or more automated response messages (ARM) on an [automated response message system]... The [message recipient] sets up such [automated response messages]... allowing [the message recipient] (12) to enter and confirm the [automated response message], or by sending at least one SMS message to the [automated response message system] (18). A message might say, for example, that ‘I’m on vacation for the week, contact me May 1st, and the [message recipient] would send it to the phone number associated with the [automated response message system]” (page 3, paragraph [0040]). As

illustrated in this passage, *Fostick* appears to disclose that, if a message recipient is not available, the automated response message system can send a message to the message sender, indicating the message recipient's unavailability. Applicant respectfully submits that this is different than claim 19 for at least the reason that *Fostick* fails to even suggest prompting the message sender to do anything, not to mention “***prompting the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender***” as recited in claim 19. Further, setting up and utilizing an automated response message system is completely different than prompting a sender to send an instant message to a second recipient and indicate that the IM message originated from the sender. For at least these reasons, claim 19 is allowable.

F. Claim 20 is Allowable Over Lee in view of Fostick

The Office Action indicates that claim 20 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“*Lee*”) in view of U.S. Patent Publication 2002/0187794 (“*Fostick*”). Applicant respectfully traverses this rejection for at least the reason that *Lee* in view of *Fostick* fails to disclose, teach, or suggest all of the elements of claim 20. More specifically, claim 20 recites:

A communication system comprising:
a memory component that stores:
instant-messaging (IM) receive logic configured to receive an IM message from a sender to a recipient;
first determining logic configured to determine whether the recipient has provided an input during a predefined time interval;
second determining logic configured to, in response to determining that the recipient has not provided an input during the predetermined time interval, determine whether the recipient is engaged in an IM chat session with another sender;
reply logic configured to, in response to determining that the recipient is engaged in an IM chat session with another sender, reply to the IM message; and
prompting logic configured to, in response to determining that the recipient is not engaged in an IM chat session with another sender, ***prompt the sender to send the instant***

message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender.
(Emphasis added).

Applicant respectfully submits that claim 20 is allowable for at least the reason that neither *Lee* nor *Fostick*, taken alone or in combination, discloses teaches, or suggests a “communication system comprising... means for, in response to determining that the recipient is not engaged in an IM chat session with another user, ***prompting the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender***” as recited in claim 20. More specifically, the Office Action admits that “Lee... is silent on disclosing explicitly, prompting the sender to send the instant message to a second recipient and indicating, by the first recipient that the IM message originated from the sender” (OA page 6, paragraph 11, line 16).

Further, *Fostick* fails to overcome the deficiencies of *Lee*. More specifically, *Lee* discloses a “[message recipient] sets up (1005) one or more automated response messages (ARM) on an [automated response message system]... The [message recipient] sets up such [automated response messages]... allowing [the message recipient] (12) to enter and confirm the [automated response message], or by sending at least one SMS message to the [automated response message system] (18). A message might say, for example, that ‘I’m on vacation for the week, contact me May 1st’, and the [message recipient] would send it to the phone number associated with the [automated response message system]” (page 3, paragraph [0040]). As illustrated in this passage, *Fostick* appears to disclose that, if a message recipient is not available, the automated response message system can send a message to the message sender, indicating the message recipient’s unavailability. Applicant respectfully submits that this is different than claim 20 for at least the reason that *Fostick* fails to even suggest prompting the message sender to do anything, not to mention “***prompting the sender to send the instant message to a second recipient and indicating, by the first recipient, that the IM message originated from the sender***” as recited in claim 20. Further, setting up and utilizing an

automated response message system is completely different than prompting a sender to send an instant message to a second recipient and indicate that the IM message originated from the sender. For at least these reasons, claim 20 is allowable.

G. Claims 2 – 3, 9, 11 – 12, 18, and 22 are Allowable Over Lee in view of Fostick

The Office Action indicates that claims 2 – 3, 9, 11 – 12, 18, and 22 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“Lee”) in view of U.S. Patent Publication 2002/0187794 (“Fostick”). Applicant respectfully traverses this rejection for at least the reason that Lee in view of Fostick fails to disclose, teach, or suggest all of the elements of claims 2 – 3, 9, 11 – 12, 18, and 22. More specifically, dependent claims 2 – 3 are believed to be allowable for at least the reason that these claims depend from and include the elements of allowable independent claim 1. Dependent claim 9 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 5. Dependent claims 11 – 12 are believed to be allowable for at least the reason that they depend from and include the elements of allowable independent claim 10. Dependent claim 18 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 14. Dependent claim 22 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 20. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

H. Claims 4, 8, 13, and 17 are Allowable Over Lee in view of Fostick in view of Murphy

The Office Action indicates that claims 4, 8, 13, and 17 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“Lee”) in view of U.S. Patent Publication 2002/0187794 (“Fostick”) in view of U.S. Patent

Publication Number 2007/0274497 ("*Murphy*"). Applicant respectfully traverses this rejection for at least the reason that *Lee* in view of *Fostick* in view of *Murphy* fails to disclose, teach, or suggest all of the elements of claims 4, 8, 13, and 17. More specifically, dependent claim 4 is believed to be allowable over *Lee* and *Fostick* for at least the reason that this claim depends from and includes the elements of allowable independent claim 1. Dependent claim 8 is believed to be allowable over *Lee* and *Fostick* for at least the reason that this claim depends from and includes the elements of allowable independent claim 5. Dependent claim 13 is believed to be allowable over *Lee* and *Fostick* for at least the reason that this claim depends from and includes the elements of allowable independent claim 10. Dependent claim 17 is believed to be allowable over *Lee* and *Fostick* for at least the reason that this claim depends from and includes the elements of allowable independent claim 14. Because *Murphy* fails to overcome the deficiencies of *Lee* and *Fostick*, claims 4, 8, 13, and 17 are allowable as a matter of law. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

I. Claims 6 – 7 and 15 – 16 are Allowable Over *Lee* in view of *Fostick* in view of *Manabe*

The Office Action indicates that claims 6 – 7 and 15 – 16 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 ("*Lee*") in view of U.S. Patent Publication 2002/0187794 ("*Fostick*") in view of U.S. Patent Number 6,584,494 ("*Manabe*"). Applicant respectfully traverses this rejection for at least the reason that *Lee* in view of *Fostick* in view of *Manabe* fails to disclose, teach, or suggest all of the elements of claims 6 – 7 and 15 – 16. More specifically, dependent claims 6 – 7 are believed to be allowable over *Lee* and *Fostick* for at least the reason that these claims depend from and include the elements of allowable independent claim 5. Dependent claims 15 – 16 are believed to be allowable over *Lee* and *Fostick* for at least the reason that these claims depend

from and include the elements of allowable independent claim 14. Because *Manabe* fails to overcome the deficiencies of *Lee* and *Fostick*, claims 6 – 7 and 15 – 16 are allowable as a matter of law. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

J. Claim 21 is Allowable Over *Lee* in view of *Fostick* in view of *Glasser*

The Office Action indicates that claim 21 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Publication Number 2003/0233265 (“*Lee*”) in view of U.S. Patent Publication 2002/0187794 (“*Fostick*”) in view of U.S. Patent Publication Number 2005/0108392 (“*Glasser*”). Applicant respectfully traverses this rejection for at least the reason that *Lee* in view of *Fostick* in view of *Glasser* fails to disclose, teach, or suggest all of the elements of claim 21. More specifically, dependent claim 21 is believed to be allowable over *Lee* and *Fostick* for at least the reason that these claims depend from and includes the elements of allowable independent claim 20. Because *Glasser* fails to overcome the deficiencies of *Lee* and *Fostick*, claim 21 is allowable as a matter of law. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, all objections and/or rejections have been traversed, rendered moot, and/or addressed, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

/afb/

Anthony F. Bonner Jr. Reg. No. 55,012

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1500
600 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500
Customer No.: **38823**